

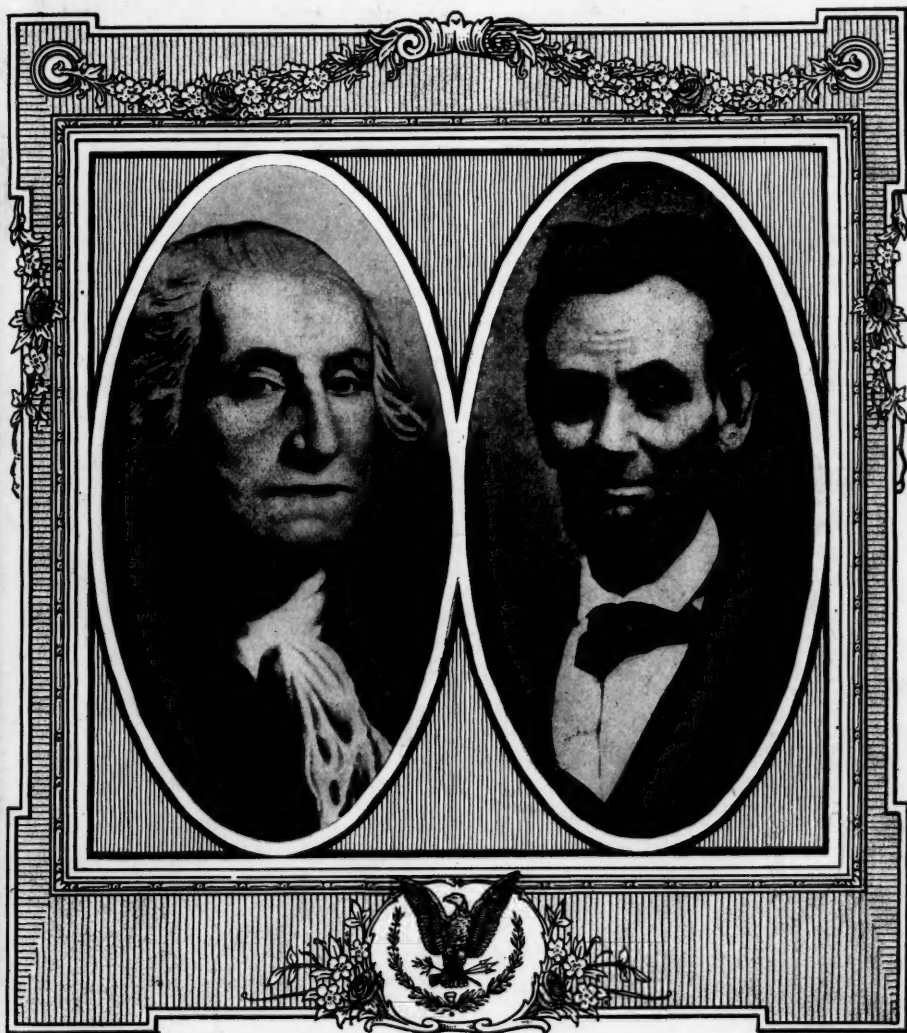
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LIBERTY

PRINCE N.

A MAGAZINE OF RELIGIOUS FREEDOM



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Religious Liberty Association

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LIBERTY

A MAGAZINE OF RELIGIOUS FREEDOM

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JUSTICES OF THE UNITED STATES SUPREME COURT

Front row from left to right: Justice Day, Justice McKenna, Chief Justice White, Justice Holmes, Justice Van Devanter.
Back row, left to right: Justice Brandeis, Justice Pitney, Justice McReynolds, Justice Clarke.

From Underwood and Underwood, New York.

LIBERTY

"Proclaim liberty throughout all the land unto all the inhabitants thereof." Lev. 25 : 10.

VOL. XII

FIRST QUARTER, 1917

No. 1

Decision of the Supreme Court of Oklahoma Guaranteeing Religious Liberty to Sabbatarians

BY THE EDITOR

THE supreme court of criminal appeals of the State of Oklahoma has just handed down a very important decision in the case of G. J. Krieger et al. v. the State of Oklahoma. This decision is a reversal of the Blaine County court which condemned G. J. Krieger and son, who are Sabbatarians, because they conducted a general mercantile business at Hitchcock, Okla., and exposed their merchandise for sale on Sunday. The supreme court of Oklahoma guarantees religious liberty to all those who observe another day than Sunday as holy time. They are guaranteed freedom to do any kind of labor or business on Sunday without being liable to the penalties of the Sunday law statutes, provided they do not interrupt or disturb those who observe the first day of the week as holy time. The decision as set forth in the legal syllabus is as follows:—

"1. Our Sabbath law proceeds upon the theory, entertained by most of those who have investigated the subject, that the physical, intellectual, and moral welfare of mankind requires a periodical day of rest from labor, and, as some particular day must be fixed, the one

most naturally selected is that which is regarded as sacred by the greatest number of citizens, and which by custom is generally devoted to religious worship, or rest and recreation, as this causes the least interference with business or existing customs.

"2. Our Legislature has wisely and properly, however, refrained from interfering with or coercing the conscience of those who uniformly, conscientiously, and religiously keep another than the first day of the week, as holy time, by exempting them from the penalties of the law; provided they work on the first day of the week, in such a manner as not to interrupt or disturb other persons, in observing the first day of the week as holy time.

"3. In exempting persons who uniformly and conscientiously keep another than the first day of the week as holy time, from the penalties of the statute, the Legislature intended to give them a substance and not a shadow, hence we hold the term 'servile labor,' as used in our Sunday statutes, to be used as synonymous with the term 'secular labor.'

"4. Courts which hold that to require Sabbatarians to keep our Sunday, does not prevent them from also keeping the seventh day, overlook the fact that under the divine commandment, that these people are striving to obey, it is as imperative that they work six days, as that they rest on the seventh. And that if their conscience compels them to rest

"Proclaim liberty throughout all the land unto all the inhabitants thereof."
Lev. 25:10.

"Who art thou that judgest another man's servant? . . . One man esteemeth one day above another: another esteemeth every day alike. Let every man be fully persuaded in his own mind." Rom. 14: 4, 5.

one day, and the law also forces them to rest another, they will thus be forced to violate the first provision of the commandment, they are conscientiously attempting to keep."

Judge Brett of the supreme court wrote the opinion, which sets forth the facts of the case, as well as the reasons why the decision of the lower court should be reversed, and also the false premise upon which other State supreme court decisions were based in the past with respect to the question under consideration, namely, the religious liberty of Sabbatarians:—

"The plaintiffs in error in this case were prosecuted, and convicted in the county court of Blaine County for violating our Sabbath or Sunday laws.

"It appears from the record that they were conducting a general mercantile business at Hitchcock, Oklahoma, and exposed their merchandise for sale on Sunday. That this was done in an orderly, peaceable, and quiet way. And there is no complaint that it was done in such manner as to interrupt or disturb other persons, in observing Sunday or the first day of the week as 'holy time.'

"It also appears that plaintiffs in error are and were Seventh-day Adventists, and uniformly and religiously observed Saturday, or the seventh day of the week, as a day of rest and 'holy time.'

"After designating the first day of the week as the Sabbath; and declaring that Sabbath breaking shall consist first of 'servile labor, except works of necessity or charity;' and second, 'trades, manufactures, and mechanical employments,' the legislature then makes an exception, and in Sec. 2406 provides that:

"It is a sufficient defense in proceedings for servile labor on the first day of the week, to show that the accused uniformly keeps another day of the week as holy time, and does not labor upon that day, and that the labor complained of was done in such manner as not to interrupt or disturb other persons in observing the first day of the week as holy time."

"Now the question is, what did the Legislature contemplate by the term 'servile labor' in this exception?

"It is loosely stated by some courts, that the term 'servile labor' is infelicitous. But there is no such thing as 'servile labor' in this Country; and has not been for years; and the term is not only 'infelicitous' but is obsolete and meaningless, as applied to present conditions. And if our statute should be limited to the literal meaning of the term, then neither the prohibition nor exception in the statute, could apply to any class of labor existing today, either in this State or the Nation. The word 'servile' pertains to slaves; to those in subjection and enslaved; and no such thing as that exists today in our Nation. But our Legislators certainly had in mind some existing character or class of labor, to which they intended that both the prohibition and the exception should apply. And we think must have intended to use the word 'servile' as synonymous with secular. It would be highly improper to strike down a statute so vital as this, as meaningless, unless it should be impossible by any reasonable construction, to ascertain the Legislative intent. This law, as stated by an eminent jurist:

"* * * proceeds upon the theory, entertained by most of those who have investigated the subject, that the physical, intellectual, and moral welfare of mankind requires a periodical day of rest from labor, and, as some particular day must be fixed, the one most naturally selected is that which is regarded as sacred by the greatest number of citizens, and which by custom is generally devoted to religious worship, or rest and recreation, as this causes the least interference with business or existing customs."

"But our Legislature, we think, wisely and properly by the provisions of Sec. 2406, Revised Laws, 1910, exempted any one, who 'uniformly keeps another day of the week as holy time, and does not labor upon that day,' from the penalties of this statute; provided, such person who uniformly and religiously keeps another day as holy time, works on the first day, 'in such manner as not to interrupt or disturb other persons in observing the first day of the week as holy time.' The writer of this opinion conscientiously and re-

"The Spirit of the Lord is upon me, because he hath anointed me to preach the gospel to the poor; he hath sent me to heal the broken-hearted, to preach deliverance to the captives, and recovering of sight to the blind, to set at liberty them that are bruised." Luke 4: 18.

"But why dost thou judge thy brother? or why dost thou set at naught thy brother? for we shall all stand before the judgment seat of Christ." Rom. 14:10.

ligiously believes, that Sunday, or the first day of the week, is the day upon which all persons should rest; and is the day that should be observed as holy time by all Christians; in commemoration of the greatest fact in our religion; the resurrection of our Lord. But I cannot, and would not if I could, make my conscience the standard of my brother. We are all fallible, and I would not assume the responsibility of forcing him to adopt my faith; for should I be wrong my responsibility would then be doubled. And the Legislature intended to refrain from interfering with, or coercing the conscience of those, who uniformly and conscientiously keep another day than the first day of the week as holy time, by the provisions of Sec. 2406. And we think this is in harmony with the spirit and genius of our government. And when our Legislators exempted persons, who uniformly, conscientiously, and religiously keep another day, from the penalties of the statute, they intended to give them a substance and not a shadow. Hence we think the Legislature intended to use the word 'servile' as synonymous with secular. And in this we are sustained by *Gladwin v. Lewis*, 6 Conn. 49, 16 Amer. Dec. 33. But even without a precedent, we think, no other construction could give vitality to the real Legislative intent.

"But it is facetiously argued by some courts, that to say to these people they shall keep our Sunday, does not prevent them from also keeping the day they regard as 'holy day.' But these courts overlook the fact, that under the divine commandment these people are striving to obey, it is just as imperative that they work six days, as it is that they rest on the seventh. And if their conscience compels them to rest one day, and the law forces them to also rest another, they would thus be forced to violate the first provision of the commandment

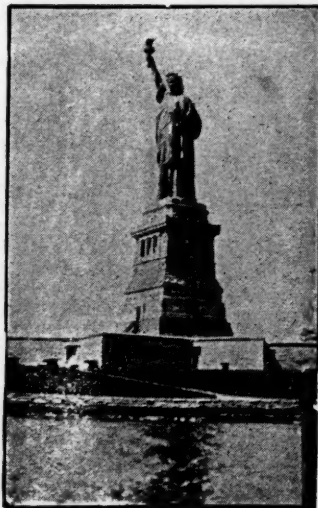
they are attempting conscientiously to keep. "For these reasons and others that might be added; we think the judgment should be reversed.

"The judgment is therefore reversed, and the cause remanded with directions to dismiss the case.

"Doyle, P. J., and Armstrong, J., concur."

This is a very important decision, inasmuch as it recognizes the American principle of government,—that the conscience of the minority is just as sacred as the conscience of the majority, and should be preserved inviolate. The broad, liberal, and courageous position taken by the supreme court of Oklahoma is in harmony with Constitutional jurisprudence, but not in harmony with former decisions of certain courts. We have often been amazed at the un-American construction and interpretation which the courts put upon the guaranties of religious liberty and individual rights vouchsafed by the Federal

and State constitutions, and have often wondered why they could not comprehend that there is no such thing as religious liberty and equality of right for the Sabbatarian when they compel him to rest on Sunday after he has already rested on the seventh day, or Saturday. When the courts exact Sunday observance from the Sabbatarian they place him on an inequality before the law with the Sunday observer.



STATUE OF LIBERTY

"Throughout the last two years there has come more and more into my heart the conviction that peace is going to come to the whole world only with liberty."—Woodrow Wilson.

"Therefore thus saith the Lord: Ye have not hearkened unto me, in proclaiming liberty, every one to his brother, and every man to his neighbor: behold, I proclaim a liberty for you, saith the Lord." Jer. 34:17.

For the state to say that the Sabbatarian has full religious liberty when it compels him to observe Sunday, because it leaves him free to worship on Saturday, is very similar to what pagan Rome said to the early Christians when the rulers granted them full religious liberty to worship Christ as a god, provided they also worshiped the gods of Rome.

Millions of the early Christians laid down their lives in protest against such religious liberty, and many Sabbatarians have suffered all the horrors and tortures of the prison cell and the chain gang in protesting against a similar tyranny

masquerading under the guise of genuine religious liberty when the courts attempted to compel them to observe Sunday in addition to the Sabbath of divine appointment. The supreme court of Oklahoma deserves the plaudits and gratitude of every lover of liberty, justice, and equality of rights for having the courage to disregard legal precedents and render a decision which safeguards the rights of the individual conscience in religious concerns in harmony with the American instead of the European theory of government.

C. S. L.

Argument of Counsel Before the Criminal Court of Appeals of Oklahoma

JUDGES Wm. O. Woolman and Cyrus Simmons argued the case before the court in behalf of the Kriegers, who had been prosecuted and condemned by the Blaine County court for conducting a general merchandise store at Hitchcock, Okla., on Sunday. Attorney Boardman argued the case in behalf of the State.

Judge Woolman, of counsel for the plaintiffs in error, opened the case by showing that the Kriegers were law-abiding citizens and of good standing in the community where they live. He said in part:—

"The plaintiffs in error regularly close their businesses every Saturday and do not perform any business on that day nor do they permit their employees to do any business for them. On account of their religious belief they regard that day as the Sabbath. On Sunday, the first day of the week, it has been their custom to open their store and sell merchandise. Because of this fact some of the residents of Hitchcock, who are not friendly with the Kriegers, had them indicted. The plaintiffs in error offered to prove at the trial that they belong to a class of religionists who conscientiously keep the seventh day for the Sab-

bath. The trial judge refused to allow the plaintiffs in error to prove their religion as a defense, which was excepted to, and the ruling of the trial court has been incorporated in the legal brief, and the Honorable Court of Appeals is asked to pass upon the action of the trial court in refusing to allow the accused to prove their religion as a constitutional defense. We hold that the plaintiffs in error are not guilty according to law and the evidence of the case."

Judge Simmons, of Knoxville, Tenn., then addressed the court in behalf of the plaintiffs in error. He said, in part:—

"May it please the Court. We believe the indictment in this case is subject to serious legal criticism. We do not believe that the indictment, according to the statute, legally defines and identifies the offense charged against the plaintiffs in error.

"Section 2404 of the Harris & Day Code, found on page 15 in the brief, reads as follows:—

"Sunday to be observed. The first day of the week being by very general consent set apart for rest and religious duties, the law forbids to be done on that day certain acts deemed useless and serious interruptions of the repose and religious liberty of the community. Any

"Now when Daniel knew that the writing was signed, he went into his house; and his windows being open in his chamber toward Jerusalem, he kneeled upon his knees three times a day, and prayed, and gave thanks before his God, as he did aforetime." Dan. 6: 10.

"Gallio said unto the Jews, If it were a matter of wrong or wicked lewdness, O ye Jews, reason would that I should bear with you: but if it be a question of words and names, and of your law, look ye to it; for I will be no judge of such matters. And he drave them from the judgment seat." Acts 18:14-16.

violation of this prohibition is Sabbath breaking.'

"The indictment charges that the plaintiffs in error on Sunday the 20th day of June, A. D. 1915, did knowingly, willingly, unlawfully, intentionally, and publicly expose for sale certain merchandise therein mentioned.

No Offense at Common Law

"At common law it is not an offense or a crime to sell merchandise on Sunday. In order for the indictment to legally define and identify the offense complained against, it should not only allege that the plaintiffs in error on a certain Sunday exposed merchandise for sale, but it should further state that such an act was 'deemed useless and serious interruption of the repose and religious liberty of the community.' This the indictment has failed to do.

"We contend that under this Sunday law it is not a crime simply to expose on Sunday merchandise for sale. It must be alleged in the indictment, and it must be proved at the trial, that such an exposure of merchandise for sale, on the day prohibited, was not only 'useless,' but that it was a 'serious interruption of the repose and religious liberty of the community.'

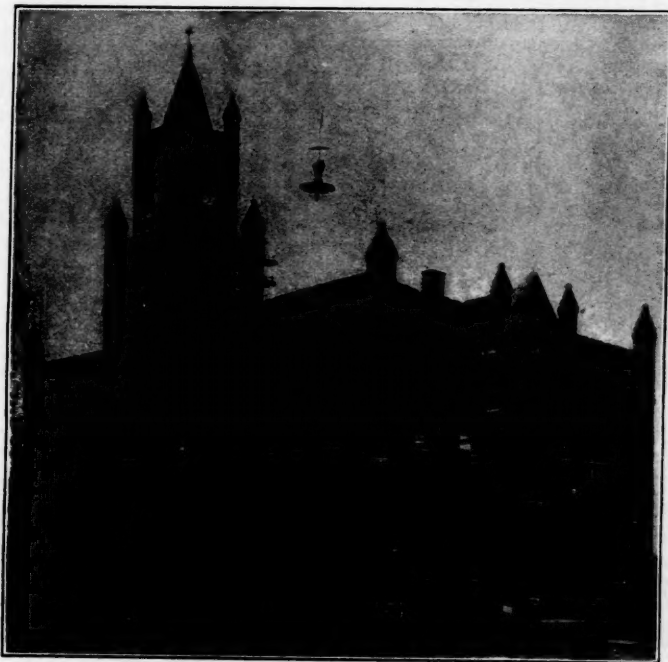
Not Guilty, Because of Exemption

"The plaintiffs in error are not guilty, be-

cause they rightfully come within the exception of the statute.

"Section 2406 of the Harris & Day Code, brief, page 15, reads as follows:—

"Persons observing another day as holy. It is sufficient defense in proceedings for servile labor on the first day of the week, to show that the accused uniformly keeps another day of the week as holy time, and does not labor upon that day, and that the labor complained



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of was done in such a manner as not to interrupt or disturb other persons in observing the first day of the week as holy time.'

"The record shows that the plaintiffs in error 'uniformly keep another day of the week as holy time.' There is no evidence to show that the labor complained of was done in such

"If any man hear my words, and believe not, I judge him not: for I came not to judge the world, but to save the world. . . . The word that I have spoken, the same shall judge him in the last day." John 12:47, 48.

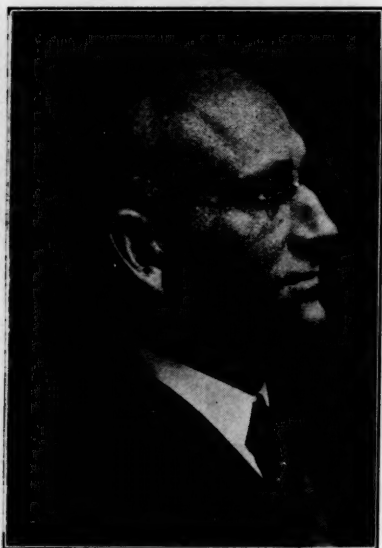
"I was ashamed to require of the king a band of soldiers and horsemen to help us against the enemy in the way: because we had spoken unto the king, saying, The hand of our God is upon all them for good that seek him." Ezra 8:22.

a manner as to 'interrupt or disturb other persons in observing the first day of the week as holy time.'

"The question for consideration is whether the plaintiffs in error come within the exception of the statute which gives to those who do 'servile labor on the first day of the week' the right to set up their religion as a defense.

Legislative Intent of Exception

"From a logical standpoint, what is it that the law wishes to except? Is it the 'servile



JUDGE SIMMONS

labor,' or is it the 'religion' of the accused? Evidently it is the religion.

"I do not know when the different sections of the Sunday law of your State were passed, but I do know that all of these sections are kindred legislation, and pertain to the same subject matter, and under the established rule of construction they should be construed in *pari materia*.

"If they are thus construed, the court will look upon all of the sections of this law as if

they were passed at the same time. If that is the case, then it is evident that it was the legislative intent to allow those who 'uniformly keep another day of the week as holy time' to set up their religion as a justifiable defense. This defense should be allowed irrespective of the kind of labor performed. It would be an absurdity to hold that the legislature intended only to except those who perform 'servile labor.' Should the court take this position, the statute would be subject to the constitutional question of class legislation and would be void.

"By giving the statute a liberal construction, and by applying the religious defense to all the sections of the statute, where it can be consistently done, all classes of religionists in this commonwealth will have their liberty of conscience.

Oklahoma Grants Broad Toleration

"When we consider the liberal constitutional guaranty of this State, which provides that, 'Perfect toleration of religious sentiment shall be secured, and no inhabitant of this State shall ever be molested in person or property on account of his or her mode of religious worship;' and when we consider that Oklahoma has a law which forbids any one from maliciously procuring 'any process in a civil action to be served on Saturday upon any person who keeps Saturday as holy time;' and when we further consider that criminal statutes are strictly construed, while their exceptions and provisos are liberally construed, it certainly will do no violence to the law under consideration for this exception to apply to all the sections of the law, and not to limit it simply to that provision pertaining to those who do 'servile labor.'

"Should the law be subject to such a restricted construction simply because subsequent sessions of the Legislature, that added the different sections, had neglected to incorporate in them the exception in favor of those who conscientiously keep another day for the Sabbath?

"As previously stated, it is a crime for any one to have a process served on Saturday on one who keeps that day as holy time.

"Consider together that law and the exception in Sec. 2406 and it is evident that it was the legislative intent to except those people

"Jesus answered, My kingdom is not of this world: if my kingdom were of this world, then would my servants fight, that I should not be delivered to the Jews: but now is my kingdom not from hence." John 18:36.

"Therefore all things whatsoever ye would that men should do to you, do ye even so to them: for this is the law and the prophets." Matt. 7:12.

who conscientiously observe the seventh day."

Judge Armstrong: "That would cover any day, Judge. It would cover anybody who kept any other day in the week, if it covered anything at all. It would not cover necessarily the seventh day alone."

Mr. Simmons: "Let it apply as Your Honor suggests to any day. Let any day be conscientiously observed, and, if Your Honor believes it was the legislative intent that a man's religion should be excepted, then, we contend, that this law, pertaining to the service of process on Saturday, should be construed together with the exception in Sec. 2406, which would necessarily include those who keep the seventh day."

Judge Armstrong: "It would include them and any one else who keeps another day."

Mr. Simmons: "Yes, Your Honor. The object of the Legislature was to give the citizen religious liberty, and we insist that all these sections should be construed together. If the law is not construed in this way, then, we contend, that it is unconstitutional."

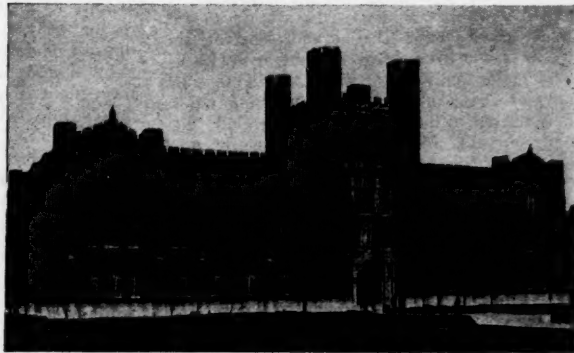
"We hold that the supreme law of this State gives every citizen his right of conscience. To this constitutional provision all statutory legislation will have to yield. The plaintiffs in error have done no wrong; they have violated no law; they should be acquitted. They have kept the Sabbath of Jehovah according to his sacred precepts. With the liberal constitutional guaranty of this great commonwealth, under what pretense could a law be enforced that would make a citizen do violence to his conscience?

Purely Religious Legislation

"The decisions of the different States have given different reasons for the existence of Sunday laws. Each State has its own peculiar Sunday law, and gives its own peculiar construction for the constitutionality of the law. Your Honors will observe that in the briefs submitted by the plaintiffs in error and by the State both cite authorities that can be

read both ways, and in the mechanical construction of the briefs both sides have yielded to the temptation of trying to make the expressions of the court speak as loud as we can in those paragraphs that are for us, and in trying to make them speak as softly as we can in those paragraphs that are against us. We make our confession in advance which the reading of the briefs will verify.

"We believe the lack of uniformity in the decisions of the courts in upholding the constitutionality and unconstitutionality of Sunday laws is evidenced by the effort of the



STATE UNIVERSITY, NORMAN, OKLA.

courts to avoid as well as to expose the religious features of this kind of legislation. While the decisions are contradictory and irreconcilable, there are certain propositions of law that are well defined in them, and upon which we may rely with impunity. The decisions invariably agree upon them, and we can stand upon them as firmly as upon the rock of Gibraltar.

Irrefragable Propositions

"The propositions are these:—

"First: As heretofore stated, according to the common law, it is not a crime to labor, or to expose, or to sell merchandise on Sunday. These acts have to be made illegal by statutory legislation.

"Second: That this country has no state religion; that there is a separation of church and state, and any law that seeks to make a union of church and state is unconstitutional.

"Did not we straitly command you that ye should not teach in this name? . . . Then Peter and the other apostles answered and said, We ought to obey God rather than men." Acts 5:28, 29.

"Let no man therefore judge you in meat, or in drink [offerings], or in respect of a holy day, or of the new moon, or of the sabbath days: which are a shadow of things to come." Col. 2:16, 17.

"Let us apply these propositions to the Sunday law of this State.

"This law reads, that: 'The first day of the week being by very general consent set apart for rest and religious uses.' The very reason for the existence of the statute is shown in its introduction. Its explanation for being a law is because, 'The first day of the week is set apart for rest and religious uses.' Your Honors know that both Sunday and Sabbath were born in the church. They are questions of faith on which the applicant decides when he becomes a member of the organization. The observance of Sunday, the first day of the week, or Sabbath, the seventh day of the week, is a test of fellowship in the ecclesiastical bodies that keep the respective days. Sunday, or the Sabbath, has no meaning unless it is related to the duty we owe our God. Labors, pursuits, and businesses that are licensed and deemed honorable during the weekly days, can only be illegalized by virtue of the religion that is a part of Sunday legislation. Sunday and Sunday laws have no meaning unless they are recognized as a statutory way of prescribing religious duties.

Enforcing Church Doctrines

"What is the State of Oklahoma doing? It is picking up a church doctrine, a church faith, and incorporating it into the law of the land, and compelling all citizens, regardless of their conscientious convictions, to obey the language of the statute. This law is leaving off the proper administrations of the functions pertaining to the Temple of Justice, where civil rights and civil conduct should be brought for review, and it is entering the very sanctuary of the soul, and standing between the individual and his God. What excuse has the Legislature for the passage of such a law? It is because the first day of the week by very general consent is set apart for rest and religious uses.

"Suppose the first day of the week by very general consent was not set apart for rest and religious uses, would there have been a Sunday law? We say there would not, from the reasons assigned in the statute. Therefore, we contend that the law is religious, that it makes a union of church and state, and, therefore, is unconstitutional. This law is religious and unconstitutional because in its application,

and in its enforcement, it interferes with the plaintiffs in error in being Christians, and it molests them in their person and property on account of their mode of religious worship.

Interferes with Liberty of Conscience

"We repeat it, Your Honors, it interferes with their being Christians, and we emphasize that statement. Their construction and interpretation of the Scriptures are necessarily and rightfully in harmony with their conscience. The duties they owe their Creator, and the manner of discharging them, are in obedience to the exposition of the Bible according to the sect or denomination to which they belong. Why should they not be allowed to exercise these inalienable rights? Should a law be permitted to remain upon the statute books the enforcement of which would take away these rights that have never been surrendered by the citizen to the state, and would interfere with their being Christians? How does this law interfere with their being Christians. Why, Your Honor, according to the exegesis of the Bible to which they have subscribed their faith, it was Christ that made the world. In the Bible they turn to the first chapter of John, and in the first verses they read these words: 'In the beginning was the Word, and the Word was with God, and the Word was God. The same was in the beginning with God. All things were made by him; and without him was not anything made that was made. . . . He was in the world, and the world was made by him, and the world knew him not.'

"In the first chapter of the Colossian letter, the fifteenth and the sixteenth verses read: 'Who is the image of the invisible God, the first-born of every creature: for by him were all things created, that are in heaven, and that are on earth, visible and invisible, whether they be thrones, or dominions, or principalities, or powers: all things were created by him, and for him.'

"It is not a question whether or not their idea of the Scripture is correct. It is not a question, for the purposes of this lawsuit, whether Seventh-day Adventists are right or not. We are not quoting Scripture to exploit their religion, but we are quoting Scripture to show that this Sunday law infringes upon the religious rights of the accused.

"From the above quotations it will be seen,

"Then saith he [Jesus] unto them, Render therefore unto Cæsar the things which are Cæsar's; and unto God the things that are God's." Matt. 22:21.

"So then every one of us shall give account of himself to God. Let us not therefore judge one another any more;" "for whatsoever is not of faith is sin." Rom. 14: 12, 13, 23.

Your Honors, that they believe it was the voice of Christ that spoke the world into existence: 'For he spake, and it was done; he commanded, and it stood fast.'

The Seventh Day is Christ's Rest Day

"They believe he made the first day, the second, the third, etc., in the first weekly cycle. That he made the seventh day, the Sabbath. That he kept the Sabbath, or rested on it; that he sanctified it, and blessed it. They believe from their interpretation of the Bible, that it was the voice of Christ on the trembling peaks of Mt. Sinai that said, 'Remember the Sabbath day, to keep it holy. Six days shalt thou labor, and do all thy work.' They believe when Christ was on earth he kept the seventh day, Sabbath, and that he worked on Sunday, the first day of the week. They believe it was Christ that said: 'The Sabbath was made for man, and not man for the Sabbath: therefore the Son of man is Lord also of the Sabbath.' If the Son of man is Lord of the Sabbath, then it is logical to infer that Christ made the Sabbath, or he could not be Lord of the Sabbath. And if he is Lord of the Sabbath, then the seventh day, Sabbath, is the Lord's day. This is their religion. Give them the benefit of their conscience. Why not let them worship their God without legal molestation?"

Judge Armstrong: "The trouble is that no one is interfering with their Sabbath. They are transacting business on the other man's Sabbath."

Mr. Simmons: "That is just the point, Your Honor. That is the argument that a great many of the honorable and learned judges make."

Mr. Simmons: "Let us go back to the statement made by Your Honor to the effect that this law gives our people religious liberty. It is true, as Your Honor has suggested, that the statute permits them to observe the seventh day, Sabbath, but it compels them also to keep Sunday, to legally keep Sunday, by cessation from labor, notwithstanding the same God that enjoins them to keep the seventh day, Sabbath, also commands them to work six days, which would include Sunday."

"This Sunday law compels them to do the very same thing, or, more properly speaking,

to refrain from doing the same thing, in order to legally keep Sunday that the law of God tells them they shall refrain from doing in order to keep the Sabbath. Thus they are required to give a Sabbath sanctity to Sunday that runs counter to their faith. Is that religious freedom?"

Majorities do Not Decide Religious Questions

Judge Armstrong: "Conceding that that is correct—has not the majority of the people the right to fix the rule of this country? The majority of the citizens of the United States do not believe as your people, and when the majority makes a law, is it not as much the duty of the members of your church to observe that as anybody else?"

The Danger of the Tyranny of the Majority

Mr. Simmons: "Your Honor, it is true the majority rules in civil matters. But is the majority always right? The danger of a despotic government lies in the despot. The danger of a monarchical government lies in the monarch; and the danger of a democratic-republican form of government, like our own, lies in the majority. Can the majority make wrong right? Can the majority make an unconstitutional law constitutional? Can the majority legislate about inalienable rights which belong to the citizen and not to the state?"

"James Madison, on this point, writes:—

"Wherever the real power in a government lies, there is the danger of oppression. In our government the real power lies in the majority of the community, and the invasion of private rights is chiefly to be apprehended, not from acts of government contrary to the sense of its constituents, but from acts in which the government is the mere instrument of the major number of the constituents. This is a truth of great importance, but not yet sufficiently attended to. Wherever there is an interest and power to do wrong, wrong will generally be done, and not less readily by a powerful and interested party than by a powerful and interested prince."

"We should be guardians of the religious liberty of all citizens. If the principle involved

"Put not your trust in princes, nor in the son of man, in whom there is no help. . . . Happy is he that hath the God of Jacob for his help, whose hope is in the Lord his God." Ps. 146: 3-5.

"Woe to them that go down to Egypt for help; and stay on horses, and trust in chariots, because they are many; and in horsemen, because they are very strong." Isa. 31:1.

in Sunday legislation infringes upon religious liberty, even though the law may be the demand of public opinion, and the expression of the majority, it is wrong, and should be so declared. If the principle is wrong, and it is upheld by the court, that same principle may

regard its literalism, and make the spirit of the enactment not only express the will of the majority, but preserve the sacred rights of the minority.

No Special Privileges Demanded

"We are not seeking any special privileges for Seventh-day Adventists. We are pleading for the natural rights and liberties of all citizens and classes of religionists."

Chief Justice Doyle: "Your contention is, if I understand you correctly, that you do not object to a rest-day law, provided it does not specify the particular day, and leaves each one free to choose his own day in harmony with his religious belief?"

Mr. Simmons: "That is our position, Judge. The conscience of the individual must be left free."

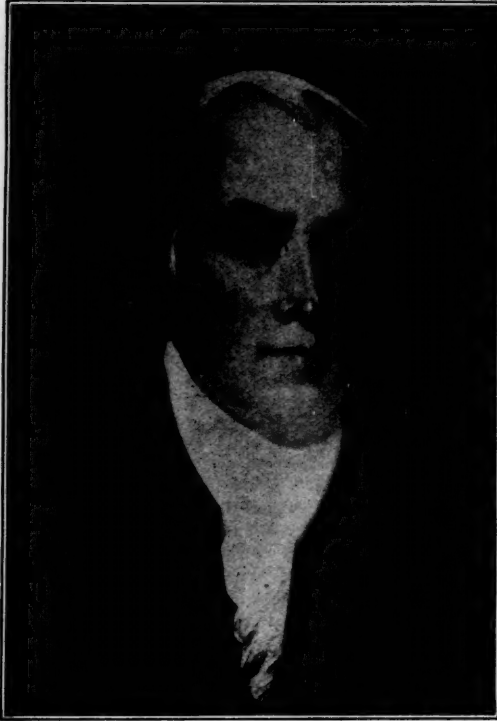
Chief Justice Doyle: "Don't you think that our statute fairly meets the principles that you are contending for to the extent of any other State in the Union? Can you recall the law of any other State that is broader or more liberal?"

Mr. Simmons: "Your Honor, we don't know how you are going to construe that statute."

California and Oregon Have No Sunday Laws

"In California they have no Sunday law, but a weekly rest law. It is the only State [except Oregon, which, at its recent election, repealed its Sunday laws] that has no law compelling people to refrain from labor or worldly pursuits on Sunday, and yet, we are told by reliable authority, that Sunday is better kept by the religious class in that State than in any other. This helps to demonstrate the uselessness of Sunday legislation, and to show that if the day is kept at all, it is kept from principle and not because of statutory coercion."

"You remember there was a time when the state required by law the citizen to support the church. Our fathers, including James Madison and Thomas Jefferson, opposed such



JAMES MADISON

Father of the Constitution and champion of freedom of conscience.

be invoked against the very people who championed it, and, as a boomerang, it will return to plague the inventors. If the majority make a mistake, or if the Legislature, in representing the opinion of the majority, word a statute so as to impair or disregard religious rights, then, we contend, when the Honorable Court comes to construe the law, it can, upon broad, equitable principles, dis-

"They hear thy words, but they will not do them: for with their mouth they show much love, but their heart goeth after their covetousness." Eze. 33:31.

"Uzza put forth his hand to hold the ark; for the oxen stumbled. And the anger of the Lord was kindled against Uzza, and he smote him, because he put his hand to the ark." 1 Chron. 13:9, 10.

a law because they contended that it was religious legislation; that it violated the principles of religious liberty; that it made a union of church and state.

"The religious zealots and ultrachurch people became alarmed, and declared if that law was repealed the country would go to the devil. They advocated that the people must be compelled to support the church.

"Public opinion against the law became more and more educated and enlightened, and kept on growing, until the law was finally repealed, and who would dare say today that these great advocates of religious liberty were wrong? Time has demonstrated the wisdom of their position.

"We contend, Your Honors, it was not the legislative intent, for the law under discussion, to make a union of church and state, and restrict the religious privileges of the citizens. On the contrary, we hold that this statute should be so construed as not to molest them in their mode of religious worship, so that they may have the right to observe the day of their faith."

Mr. Boardman's Argument

Mr. Boardman, a learned attorney of Oklahoma City who was employed by certain parties to prosecute the case, then addressed the court. He contended that the term "servile labor" could not be so construed as to include merchandising. The court contended with Mr. Boardman that the statute granting the exemption would have to be so construed as to protect every citizen's rights and convey the legislative intent in a substance instead of a shadow. Mr. Boardman said, in part:—

"If you permit the Hebrew or Seventh-day Adventist to make an exception to the rule, you are liable to tread on dangerous ground. I can readily see where that would work a hardship if Hebrews or Adventists could keep their stores open while people were passing on their way to church, and they would also have the advantage of other merchants of the town."

Discrimination Misapplied

Judge Armstrong: "Would you think the man who kept open on Sunday when nobody was in town had the advantage? It looks like the advantage would be in favor of the man who kept open on Saturday when everybody was trading.

"These words, 'servile labor,' have been handed down from the old days, and cannot apply now because slave labor is past in every respect. The ordinary laboring man does not want to be treated and considered as a servant on the line of master and servant.

"The word 'servile,' as shown in the Minnesota case, is an 'infelicitous expression.' As a matter of fact, it is an obsolete term."

Mr. Boardman: "If that be true, it would destroy the entire statute 2406.

"Can you apply 'servile labor' on Sunday to manufacturing, shooting, horse-racing, and gaming? This proviso will have to apply to all these acts under the defense they are trying to make."

Judge Armstrong: "I do not think so. I think you are making a broad statement. These people are not engaging in anything that would harm anybody else on the first day of the week. We all concede that shooting and horse-racing, and such things would interfere with other people on Sunday."

Mr. Boardman: "If there is nothing like 'servile labor' any more, then the whole thing falls. I do not see how any opinion can be written in this case and hold that Sec. 2406 applies to merchandising when they are not charged with selling anything at all."

Judge Armstrong: "Is there any real horse sense in proving that?"

Mr. Boardman: "I don't know whether it would be horse sense or not. It equalizes them as far as the old term 'servile labor' is concerned. Of course these statutes have come down from times when those expressions were used."

Mr. Boardman: "I have enjoyed very good personal relations with the Seventh-day Adventists, and have some of them as clients. It is more of a cold-blooded legal proposition, whether they are to keep open stores on Sunday, and whether that is servile labor or not."

"But ye turned and polluted my name, and caused every man his servant, and every man his handmaid, whom he had set at liberty at their pleasure, to return, and brought them into subjection, to be unto you for servants and for handmaids." Jer. 34:16.

"For so is the will of God, that with well-doing ye may put to silence the ignorance of foolish men: as free, and not using your liberty for a cloak of maliciousness, but as the servants of God." 1 Peter 2:15, 16.

"I wish the Court to have a thorough understanding of my view that I took at the trial and that I take now of this case, and if the law is held unconstitutional for one reason or another, it will be all right with me. My personal feelings are very broad on that line."

Attorney Woolman's Rebuttal Argument

Mr. Woolman: "The Legislature was trying to protect not only the Seventh-day Adventists, but the Jew and others who worship on any other day of the week. None of the persons living in that town have ever raised a question on the subject. It was a person who was indebted to Mr. Krieger and was indignant, and he was gotten to prosecute this case. Not one of the honorable citizens of the town did this act, but Brown, the man who does not live in that beautiful little town of Hitchcock, did this work. We are simply here to give what light we can. We have tried to give the Court the theory upon which we tried the case. We shall be pleased if the Court can see its way clear to give the statute that kind of construction that you think is right and just to these parties. Whatever is decided, of course, will be the law of the State from this on. There are four other cases against these parties. The decision of this case will probably settle them all."

Attorney Simmons's Rebuttal Argument

Attorney Simmons: "May it please the Court. We have only a few remarks to make in conclusion. I realize that this case depends upon the construction of the words 'servile labor.' When Your Honors come to construe these words and apply to them a broad and equitable principle of construction, the dominant idea of the spirit of the law will prevail over the literalism of the statute, so that the legislative intent may be carried out irrespective of its wording."

Chief Justice Doyle: "You are asking the Court now to do what the Legislature would have done if it had been brought to their attention. The first section of the law was made and these others were added without its being broadened out. They forgot to put the saving clauses on the following sections. It should have been carried out. But would that be judicial legislation if we put it in there?"

Mr. Simmons: "I think not, Your Honor. This is one of the noble offices of the ju-

diciary. It is not judicial legislation for the Court to do a great right by preventing a great wrong that is being perpetrated against citizens and their property, when it words the statute so as to declare the true legislative intent. One of the greatest acts Your Honors can do is to construe a statute so as to protect the religious rights of citizens in harmony with the supreme law of the State.

"If the law in question is construed in its literal sense, it would be opposed to the organic law of the State, and unconstitutional. If it is construed as we contend, its integrity will be maintained and all classes of citizens will have their religious rights.

"I thank the Honorable Court for your patient consideration of this case."

Chief Justice Doyle: "The Court is pleased to have the question of so great importance presented so fully by both sides. It will be submitted upon the briefs, and the arguments that have been made."

After deliberation for three months, the court handed down a written opinion, which granted full religious liberty to Sabbatarians, and reversed the decision of the lower court. All three judges concurred in one of the most learned and able opinions which was ever written upon this subject, and it is a long step forward instead of backward. Do not fail to read this opinion, which is printed in full on pages 3-5 of this issue.

If the state did not mix religion and politics, the courts would not be called to pass upon such questions. The only consistent American way to deal with this matter is to relegate the observance of religious institutions to the realm of church functions and divorce them entirely from civil enactments. Total separation of church and state is the only basis of lasting peace and harmony between the citizens of divergent faiths. All men should be induced to be religious, but not by force. Compulsory religion is contrary to the laws and principles of Christianity.

C. S. L.

"Stand fast therefore in the liberty wherewith Christ hath made us free, and be not entangled again with the yoke of bondage." Gal. 5:1.

Report of Campaign Which Repealed Oregon Blue Laws

BY HAMPTON W. COTTRELL

INCIDENTAL to the initiative petition of the Independent Retailers' Association for the repeal of the Oregon Sunday law, Rev. G. L. Tufts framed a proposed initiative bill for a new Sunday measure, but failed to secure sufficient signatures to meet the requirements of the law. He assigns two reasons for what he terms the "withdrawal" of his bill. First, addressing the general public in the *Oregonian* of July 4, 1916, he is quoted as saying that the league's board had decided it would not be wise to have two Sunday bills upon the ballot at the same time lest it might confuse the voters. But in speaking to the church people through the *Pacific Christian Advocate* of Oct. 11, 1916, he said in part: "The bill . . . is not on the ballot because only one ninth of the four hundred and fifty pastors to whom the initiative petition was sent for signatures, returned them to our office." (Signed) G. L. Tufts, Supt. Weekly Rest Day League.

These are two very different reasons for not having the proposed initiative measure on the ballot. To say the least, there was a good reason why Mr. Tufts failed to place his bill upon the ballot, — he did not and could not meet the requirements of the law. With regard to his flimsy public excuse for his failure, we heartily agree with him that it was unwise to have two Sunday bills upon the ballot at the same time — we consider it equally unwise to have even one affirmative Sunday bill on the ballot at any time.

The Oregon Sunday blue law was repealed Nov. 7, 1916, by a majority vote of 32,163, as reported in the *Oregonian* of November 13, leaving the citizens of this fair State free to choose each for

himself whether he will be religious or not religious, and to carry out the highest ideals of his choice, provided only that in so doing he does not in any way invade the equal rights of any other person.

The vote was an intelligent one. The entire question was thoroughly canvassed pro and con. Pamphlets treating the subject and newspapers containing articles for and against the Sunday law were extensively circulated, while the question was freely discussed before large audiences by able speakers. All of which goes to show that the people knew what they were doing when they voted for the repeal of the law which the unwise zeal of its partisans had made especially obnoxious to liberty-loving American citizens. The people of Oregon are in favor of the widest religious liberty consistent with good citizenship and the safety of civil society.

That Sunday laws are religious was again proved in the Oregon campaign by the following quotation: —

"The church can prosper in the midst of saloons, as is evidenced by Norway, Sweden, Scotland, and Canada. But the church will perish when the Lord's day is converted into a holiday devoted to Sunday business, common labor, and worldly sports and amusements. . . . Will not each church appoint a committee to work at the polls on election day to defeat this vicious bill? The life of the church, the welfare of the home, the prosperity of the State, are in the balance. The Seventh-day Adventists will vote to maintain Sunday poolrooms."— G. L. Tufts, Supt. Weekly Rest Day League, in *Pacific Christian Advocate*, Oct. 11, 1916.

From this same paper, under date of Nov. 1, 1916, page 11, in an article signed G. L. Tufts, I quote: —

"Then said Jesus unto him, Put up again thy sword into his place: for all they that take the sword shall perish with the sword." Matt. 26: 52.

"Be it known unto thee, O king, that we will not serve thy gods, nor worship the golden image which thou hast set up." Dan. 3:18.

"Since the closing of the saloons the pool-rooms have become one of the most demoralizing places of resort. If for no other reason, its repeal should be prevented. Wherein it falls short of a good law, we can then ask the next Legislature, which convenes in January, to amend it. Should it be repealed, it will be more difficult to get a new law enacted. Will not every pastor urge his congregation to vote No. 313, and thus cast their ballots against the repeal of the law? Also appoint a committee to work at the polls."

He should have known before he gave such general counsel to all the churches to appoint committees to "work at the polls," that Sec. 3518 of Lord's Oregon Laws forbids any one in the State to electioneer on the day of election, either for a nominee or for a measure; but it appears he is not well informed along the line of what the State law requires.

The *Oregonian* of July 4, 1916, thus quoted Mr. Tufts:—

"So we will try out the question in November whether the people want a Sunday law by taking the field against the Kellaher repeal measure. We expect to snow his measure under by a heavy vote. In this way we will demonstrate to the Legislature that the people of Oregon want a Sunday-rest law. Then we will ask the next Legislature to amend the existing law so as to make it an up-to-date, effective statute, free from any unjust discriminations."

Mr. Tufts admits, then, that the late law was unjust and discriminatory, but he took the field in favor of retaining it.

The question was tried out, and the people decided they did not want Sunday, Saturday, or any other day of compulsory rest. But after the election, when the Sunday law was repealed by a majority vote of 32,163, Dr. Tufts said, "The recent vote on the Sunday law of Oregon was not a test of principle of six days of business and labor to constitute a working week."—*Oregon Journal*, Nov. 13, 1916. That vote to be taken

in November, it was said, would "try out the question;" but seeing the statute was repealed, it "was not a test."

"We expect to snow his measure under by a heavy vote."—*Oregonian*, July 4, 1916. But after the election is over, the same writer says, "The majority for the repeal was not so large as was expected."—*Oregon Journal*, Nov. 13, 1916.

"The Weekly Rest Day League was never fully satisfied with the old statute," said Dr. Tufts in the *Oregonian*, Nov. 13, 1916. An honest confession is good for the soul. A majority of 32,163 of the voters were not satisfied with it either. Yet Dr. Tufts still persists in prescribing such forced rest "for their best good."

The blue law has gone to its quiet resting place: may honor ever be accorded to Oregon's people for the wisdom displayed in its interment.

Punished for Being an Unbeliever

THE Washington *Herald* of Dec. 7, 1916, gave a news item of the prosecution of the Rev. Michael Mockus, a Unitarian clergyman of Waterbury, Conn., whose case will come before a Connecticut jury shortly. The offense charged is that this clergyman stated publicly that he did not believe the Bible account of Adam's sin by the eating of an apple, nor the account of a big fish swallowing Jonah.

Mr. Mockus is being prosecuted under an old statute which was passed two hundred and seventy-four years ago, when there was a union of church and state in Connecticut. This old statute provides a penalty for any person "who calls into question any portion of the Holy Writ."

"Forbear thee from meddling with God, . . . that he destroy thee not." 2 Chron. 35:21.

"If the Son therefore shall make you free, ye shall be free indeed." John 8:36.

This law is being invoked by persons who profess to be shocked and outraged by Mr. Mockus's expression of disbelief.

Would Jesus Christ thus prosecute an unbeliever? Hear ye him: "If any man hear my words, and believe not, I judge him not: for I came not to judge the world, but to save the world. . . . The word that I have spoken, the same shall judge him in the last day." The Saviour never authorized any man or set of men to judge dissenters and nonconformists before the last great day, and then God will be the judge. Why, then, should

mortals usurp God's throne, and try to manage the administration of the kingdom of heaven, when Christ himself refused to judge unbelievers before the time?

If the professed disciples of Christ had always followed the example of their divine Pattern, religious persecution would never have been possible. The laws of Christ are laws which rest upon the foundation of religious liberty and freedom of conscience. God accepts only freewill service, service which emanates from loving hearts. C. S. L.



The People Repudiate Religious Legislation in Altoona]

LAST July, Mayor Rhodes of Altoona, Pa., at the instance of the Ministerial Association, decided to enforce the old Sunday blue laws of 1794, with some additional drastic penalties to be imposed by the city. The Ministerial Association thought it was its religious duty to make Sunday a day of terror to those who work on the other six days of the week. But the city council refused to enact the penalties recommended by Mayor Rhodes, and decided to submit the whole question to the people on the referendum plan, at the November election. The result was a most decisive majority against Sunday legislation. Indeed it may be said that wherever the question of Sunday legislation is submitted to the people, they always vote it down with a decisive majority.

The *Altoona Times* of Nov. 8, 1916, the day after the election, gave the following interesting news item under the caption:—

"BLUE LAWS DEFEATED BY BIG VOTE OVER CITY—MAYOR RHODES'S PET MEASURE GIVEN FEARFUL DRUBBING AT HANDS OF CITIZENS—KING IS 'DE-THRONED.'"

"Twentieth century thought influenced the voters of Altoona yesterday, when they voted down, by a decisive majority, Mayor Rhodes's referendum ordinance 'forbidding, under penalty, the desecration of the sabbath, commonly called the Lord's day.' The complete but unofficial returns give this result: For the ordinance, 2,801; against the ordinance, 4,334. Determined efforts were made by the friends of the mayor, the Ministerium, and other organizations that were back of this measure to secure for it a decent hearing before the people. . . .

"Interest in the result of the referendum vote was second only to that of the Presidential decision, and there were expressions of genuine satisfaction when it was established that the Rhodes proposition had been snowed under. This is believed to be the first referendum on the 'blue laws' taken in Pennsylvania."

In an editorial in the *Altoona Times*

"Therefore judge nothing before the time, until the Lord come, who both will bring to light the hidden things of darkness, and will make manifest the counsels of the hearts." 1 Cor. 4:5.

"Ye have been called unto liberty; only use not liberty for an occasion to the flesh, but by love serve one another." Gal. 5:13.

of October 31, the religious issue was outlined under the following caption:—

"Will You Vote Your Liberty Away?"

"The voters of Altoona next Tuesday will place their liberties in the keeping of intolerant fanatics and merciless bigots, or they will rebuke the mischievous meddlers who seek to rule them.

"Mayor Rhodes, pursuant to a pre-election pledge, is determined to suppress the opportunities of a worthy class of people for necessary and healthful relaxation on Sunday. He found that existing laws did not provide sufficiently drastic punishment to meet his requirements, and he wants the people of Altoona to give to him an enlarged power for persecution. . . .

"When a people, in a fair test, deliberately vote away their liberties and place themselves at the mercy of a vain egotist,—a miserable imitation of a despot,—they merit any treatment that may be accorded them. We shall know next Tuesday whether the people of Altoona appreciate the inestimable boon of personal liberty. We shall know whether they are fitter to be slaves than freemen."

In another editorial of November 7, the same paper had the following:—

"The Big Question for Today"

"It won't make much difference, in the long run, whether Hughes or Wilson is elected today. There is not enough difference between them to fight about. . . . But there is a question—seemingly a small question, so small that it is represented down in a far corner of the official ballot—that is of vital concern to every voter. It is a question whether our rights and liberties shall be restricted at the behest or demand of an unrighteous, narrow, fanatical class of moral reformers who have mistaken bile for religion, and who have interpreted the bleating of their bigotry as the clarion call of the Creator:

"We refer to the 'blue law' referendum. It is a weapon that is to be placed in the hands of our picayunish mayor, and with which he will beat out the last vestige of freedom possessed by the masses—the plain people.

"Whether we purchase ice cream is unimportant. Whether we have the right to purchase it is of transcendental importance. If the bigots and religious zealots can say that

we must not do certain things [on account of religion], they can say that we shall do certain things [for the same reason].

"They are endeavoring to compel us to respect their wishes,—mind you, 'their wishes,' not the wishes of the Almighty,—and they intend to employ the law to sustain their position.

What the Blue Laws Required

"When the 'blue laws' were conceived, they compelled the people to go to certain churches and to pay certain sums of money to the support of the clergy. And that is what some of the clergy are striving to do [now]. They tell us that we must not purchase ice cream. Tomorrow they may tell us that we must go to church, and the next day they will tell us what church we must attend. Before Saturday they will tell us how much money we must contribute to the clergy.

"A principle is involved that should not be lost sight of. Fundamentally, the freedom of the people is at stake. A vote for Mayor Rhodes's proposition is a vote against freedom of action and conscience. It is another link in the chain that is to bind us in a bondage more abject and more servile than chattel slavery. Physical serfdom is intolerable. Yet it is preferable to mental serfdom, and that is what Mayor Rhodes and the Ministerium are endeavoring to impose upon us."

The Altoona *Mirror* championed the cause of the mayor and the Ministerium, and drew some fine distinctions as to what was and was not proper conduct on Sundays. It vied well with the old-time hairsplitting of the Pharisees of Christ's time. The *Mirror* contended that it was a crime for retailers to sell ice cream on Sunday, but that it was all right for manufacturers to make and sell it. It was a crime for a drug store to sell ice cream, but all right for a restaurant to do so. It was a crime to sell it on one side of the highway, but perfectly lawful on the other side.

The Altoona *Times* made the following comments upon the *Mirror's* remarkable differentiation as to who was and who

"Ye shall know the truth, and the truth shall make you free." John 8:32.

"For thou hast maintained my right and my cause; thou satest in the throne judging right." Ps. 9:4.

was not guilty when he sold ice cream on Sunday:—

"Isn't it remarkable, this solicitude the *Mirror* is manifesting for the manufacturer? Isn't it fairly conclusive proof that our contemporary's advocacy of 'blue law' enforcement is inspired in bigotry and nurtured in its hate of men who do not hold membership in its church?"

"It is all so puerile, so absurdly foolish, this splitting of hairs, that the remarkable thing is that all this agitation has excited other than tolerant contempt. We respectfully represent that the *Mirror* has demonstrated the insincerity of the movement. Its declaration that the sale of ice cream is not *per se* unlawful, but that it becomes unlawful in certain specified instances, stamps its position as fraudulent.

"If the Almighty is interested in the question, we are confident that he is unable to make such fine distinctions. We believe that his laws are immutable. He does not make fish of a rich manufacturer and bones of an inconspicuous retailer. He does not determine the degree of guilt by the size of bank accounts. His decrees are abiding and eternal. His wrong is wrong and his right is right. But some of his self-constituted spokesmen . . . make the cause of righteousness ridiculous.

"Every recognized Christian teacher, from the days of the founders of the church to the present, has unqualifiedly protested against any attempt to make Sunday a day of suffering, privation, and oppression. The literature of the world is replete with admonition against any such practice. Christ himself declared that the Sabbath was for man, not man for the Sabbath. But what does all this accumulated testimony amount to in the face of the peashooters who assume to speak for the Lord on questions of moment?"

"A vote for the Rhodes ordinance is a vote for intellectual slavery. It is a long step backward. The success of this project will be evidence that Altoona is too antiquated, its public consciousness too dead, its men and women too inert, to appreciate the priceless boon of human freedom."

"Ecclesiastical Meddling"

The Altoona *Tribune*, another paper which championed the cause of the Sunday-law crusaders, had the courage to

confess the reason why the Rhodes Ministerium ordinance was defeated. On November 10 it made the following observation on the signal defeat of this iniquitous measure:—

"The recent vote on Sunday closing . . . is a protest against ecclesiastical meddling with the municipal government. The American people are very jealous of any attempt to unite church and state."

The Altoona *Times*, in commenting on this confession, makes the following apt remarks:—

"It would have been more creditable had the *Tribune* published this editorial before instead of after the election. Before the vote was taken the *Tribune* had no objection to a 'union of church and state.' It gave its best efforts to the success of the scheme. After the election it gracefully accepts the popular judgment, and censures its recent colleagues in Sunday law crusading. We congratulate our contemporary that it has the courage to express the truth. It is better late than never. When we are again face to face with ecclesiastical meddling, we shall advert to its most recent deliverance, in the hope and expectation that it will enter its protest when it promises to accomplish something of good."

"Blue Laws Defeated"

On the day after the election the Altoona *Times* made the following pointed editorial remarks:—

"The defeat of Mayor Rhodes's proposition to 'put teeth into the blue laws' was inevitable. The result was never in doubt. This ordinance, conceived in the most contemptible of motives, had upon its face the earmarks of retrogressive legislation, and it was an insult to the progressive, intelligent citizens of this community to demand that they approve it.

"It would have been just as reasonable to have invited the people to have approved a return to the stocks, to the burning of witches and heretics, to any of the absurd and brutal practices of the past, as to ask them to place upon their necks a degrading reminiscence of a less-enlightened era. That the people made short work of this ordinance, in the first

"Shall not the Judge of all the earth do right?" Gen. 18:25.

referendum in which they participated, is indicative of an awakened and militant public sentiment that cannot be coerced or influenced by threats of future punishment or present political disfavor. The people very sensibly voted against the Rhodes measure, and this expression of the popular will should be accepted as a guide for future official action.

"The Altoona Times has contended for several years that the 'blue laws' have no place in this modern era. We have contended that they are against sentiment and in violation of the rights of the people. And this referendum proves that we had not mistaken the thought of the people. The Rhodes proposition is as dead as a doornail, and city councilmen will fly in the face of popular wrath if they give further consideration to it."

The LIBERTY magazine rejoices with the Altoona Times in the victory for the cause of religious liberty. For years

we have carried on a vigorous campaign of education along religious liberty lines in the city of Altoona, and we are glad to see this splendid fruitage as the result of our efforts, so ably seconded by the *Times*.

We do not want to be misunderstood in our opposition to compulsory Sunday and Sabbath observance. We believe that all people should piously and religiously observe the Sabbath, but it is not the business of the state to compel people to observe religious institutions, nor should the clergy ask this of the state. In defense of this position we are willing to stake our all, and so is every true lover of religion, truth, justice, and liberty.

C. S. L.

The Civil Sunday Plea a Religious Fraud

BY CARLYLE B. HAYNES

EARLY in November, 1916, the Ministerial Association of Asheville, N. C., began a campaign for a Sunday closing law for business houses. In putting forth their first plea for such a law, they disavow all desire for "any legislation whatever that should attempt to control any man's religious beliefs or practices," but base their campaign on "social and civil grounds."

This plea for Sunday legislation is becoming very popular throughout the entire country. Sunday law advocates do not dare to reveal the true reasons why they desire such legislation. They hide their true motives under a great show of interest for the welfare of the state. Time was when they came out into the open, and made loud appeals for stringent Sunday laws, well enforced, on the grounds of religion, and for the sake of religion.

But these early efforts were met with the declaration of a right, which declaration broke all the force of their arguments,—the great right of liberty of conscience and freedom in religion for every human being. The statement of this

truth very clearly reveals the iniquity of the compulsory observance of any religious practice by civil law. Every soul has the most complete liberty to worship God according to the dictates of his own conscience, and cannot rightfully be compelled to worship God according to the dictates of some law-making body. And, more than this, as far as human legislation is concerned, every soul has an equal right not to worship God at all if he so chooses. Worship cannot be compelled rightfully any more than can the forms by which that worship shall be manifested and expressed.

Failing to realize their desires by the use of the religious argument, these Sunday law advocates, instead of confessing the error of their ways, as they should have done, determined in their hearts that they would carry out their desires in another way. They would deceive the people and their lawmakers into believing that there was no religion in Sunday legislation.

The Preacher in Politics

They at once became great patriots, clamoring for the welfare of the state.

Naturally they developed into able politicians, and became adept in all the trickery and circumlocution of politics. Boodlers, grafters, gangsters, ward heelers, race-track touts, gamblers, white slavers, brewers, and other similar gentry had long been familiar sights in the political life of the nation. Now they were joined by the preacher. And they all joined in the old, old game of fooling the public by cloaking their real intentions under a pretense of real devotion to the public welfare.

So they put forth the plea that Sunday laws were needed, not at all for the church, but for the state. The state was going to perdition, and the way to save it was to protect the Sunday institution. Sunday, they found, was the bulwark of the nation. It must be protected by law, or the nation would go down in ruin. And the way to protect it was to prohibit every one from doing anything on that day except those things which the preachers thought they ought to do. Business must be prohibited, labor must be prohibited, pleasure and amusements must be prohibited, sport must be prohibited, secular education must be prohibited, travel must be prohibited.

The only thing left to do on Sunday was to go to church. Exactly. And thus we are brought back to the true motive in all Sunday law advocacy; namely, to compel the people to be religious, or at least to act as if they were religious.

But this real motive is carefully hidden by those who thus seek to force their opinions upon all others. To reveal their true purpose would be to defeat their iniquitous designs; therefore they hide their real object from the sight of men by iterating and reiterating their interest in the welfare of the state, and their affection for the "civil sabbath." The cuttlefish does not monopolize the art of concealing its true position by a copious emission of ink.

There is no such thing as a "civil sabbath." The Sabbath is a religious institution. The Sunday institution is reli-

gious. It originated in a union of church and state. The demand for its observance comes from religious people, mostly preachers. Its nonobservance is deplored because it lessens attendance at church. Laws requiring its observance prohibit civil things,—labor, business, sports, amusements, travel, and the opening of public museums, libraries, art galleries,—but permit and encourage religious things. They are laws in the interest of a religious institution.

The true purpose of Sunday legislation and Sunday law enforcement is clearly and honestly stated thus: "Give us good Sunday laws, well enforced by men in local authority, and our churches will be full of worshipers."—*Rev. S. V. Leech, D. D., Homiletic Review, November, 1892.*

That is honest. There is no attempt here to hide the true motive. We invite all other Sunday law advocates now to be as honest in stating their motives, and to abandon all reference to that pious fraud, "the civil sabbath."

A Dangerous Bill

BILL H. R. 8348, for the District of Columbia, which passed the House last spring, is a vicious and exceedingly dangerous measure, and should never be accepted by the Senate in its original form, nor in any form approximating thereto.

This bill, after passing the House, was so amended by the Senate as to eliminate its worst features and render it fairly acceptable to fair-minded people. But a persistent effort is being made to create a strong sentiment in favor of its final passage in practically its original form. Every true American should use his legitimate influence to the utmost to insure the passage of the bill as amended by the Senate, or not at all. And this is especially important since it is openly stated by the friends of the measure that the expectation is that when this bill becomes a law in the District of Columbia, it will then be taken as a model for similar laws in all the States of the Union.

The trouble with the bill as it passed the House is that it puts almost unlimited power into the hands of the judge of the juvenile court and of guardians appointed by him. It makes children practically wards of the state, instead of wards of their parents or near kindred, and admits of their being taken from their natural guardians, and committed to an institution *either within or without the District of Columbia*, and this with no possibility of appeal or review by some other court.

Under the provisions of this bill as it passed the House, and as certain interests

are determined that it shall finally pass the Senate, the juvenile court judge has it within his power to commit Protestant or Jewish children to Roman Catholic institutions, and that upon secret information and after a secret hearing, even the records of which may not be examined except by special permission of the court.

The bill is thoroughly un-American, and its enactment into law would be a wide departure from American principles of government. The original bill must be defeated if human rights are to be preserved in this country.

Legal Aspects of the Sunday Question

BY W. F. MARTIN

A STRONG feeling exists in the United States against any avowed purpose of religious legislation. This feeling prevails because of the love of liberty in the hearts of Americans, and because of lessons learned from the study of the early history of our country. As in no other nation in the world, there is here now, and has been, a careful study of the results of a union of church and state.

Notwithstanding, there is at present a determined purpose on the part of certain religious organizations to have the Christian religion, with its popular forms, legalized in this country. Knowing, however, the antipathy that exists in the minds of the great body of people against avowed religious legislation, these advocates of a union of church and state endeavor to cover up their plans by denying their purpose of religious legislation, and claiming that what they are asking for are simply civil enactments.

It can be stated with assurance that if their purposes were unmasked and held plainly and openly before the people, the majority would vote against legislating the Christian religion, or any other religion, into law. It is an endeavor of the minority to coerce the majority. This is, however, not vital to the principle.

because the majority would have no more right to silence the few than the few would have to silence the majority.

One striking example of this is the endeavor on the part of the different sabbath associations to secure a Sunday law forbidding work upon the first day of the week. When confronted with the fact that this is religious legislation, it is claimed by its proponents, that Sunday laws are civil legislation. A glaring contradiction of this, however, is seen in the fact that nearly all Sunday laws are demanded either by ministers or by their partisans.

The weekly-rest-day idea is based upon the command of God. To show that a Sunday law is religious, and not civil, it is only necessary to note the fact that things are forbidden on that day which are not wrong in themselves, but only considered wrong because of being done on Sunday. Honest work done at any time or under any circumstances is not opposed to the best principles of civil government. The only reason for its being forbidden on any day comes from the real or supposed character of that day. Hence any law forbidding work on one day that is allowed on another is a religious law.

The purpose of civil law is to restrain the vicious and punish the guilty. A thing that is wrong from a civil standpoint on one day is wrong on all days. The man who attempts to coerce one of his fellow men into honoring a day because of its supposed sanctity, is endeavoring to control the actions of others in their relation to their God. Whenever men have set themselves as God's avengers, they have always brought persecution to bear upon those who do not agree with them.

There are different religious denominations in this land who do not agree upon the question as to when the Sabbath day should be observed, whether on the seventh or the first day of the week. For the civil government to step in and decide this question would be for it to assume the right to settle religious controversies. When a State does this, it establishes a State religion.

An eminent authority on Constitutional limitations has well said:—

"The Legislatures have not been left at liberty to effect a union of church and state, or to establish preferences by law in favor of any one religious persuasion or mode of worship. There is not complete religious liberty where any one sect is favored by the state and given an advantage by law over other sects. Whatever establishes a distinction against one class or sect is, to the extent to which the distinction operates unfavorably, a persecution; and if based on religious grounds, a religious persecution. The extent of the discrimination is not material to the principle; it is enough that it creates an inequality of right or privilege."—Cooley, *"Constitutional Limitations,"* fifth edition, p. 580.

Applying this principle to sabbath legislation, Judge Cooley says:—

"The Jew who is forced to respect the first day of the week, when his conscience requires of him the observance of the seventh also, may plausibly urge that the law discriminates against his religion, and by forcing him to keep a second sabbath in each week, unjustly, though by indirection, punishes him for his belief."—*Id.*, p. 589.

This is certainly sound reasoning. The careful reader will notice that this noted jurist recognizes that a Sunday law interferes with religious belief, and is

therefore not civil, but religious legislation. Based on this same principle, the California Supreme Court ruled:—

"The Constitution, when it forbids discrimination or preference in religion, does not mean merely to guarantee toleration, but religious liberty in its largest sense, and a perfect equality without distinction between religious sects. The enforced observance of a day held sacred by one of these sects is a discrimination in favor of that sect, and a violation of the religious freedom of the others."

Only a few days ago another decision was handed down by the criminal court of appeals of Oklahoma. This is as follows:—

"Courts which hold that to require Sabbatharians to keep our Sunday does not prevent them from also keeping the seventh day, overlook the fact that under the divine commandment that these people are striving to obey, it is as imperative that they work six days as that they rest on the seventh. And that if their conscience compels them to rest one day, and the law also forces them to rest another, they will thus be forced to violate the first provision of the commandment they are conscientiously attempting to keep."

Again, to be sure that the Sunday laws are religious legislation, one need go no farther than to read almost any proposed Sunday bill. Exemptions to its enforcement are given to those who conscientiously observe some other day as the Christian sabbath. No one need be deceived as to whether these proposed Sunday laws, and those which are already in existence, are religious or civil, as it is very evident that they are all an endeavor to bolster up a religious dogma, and enforce upon the people of the land the religious convictions held by those who have not yet learned the great truth as set forth by the Master: "Render therefore unto Cæsar the things which are Cæsar's; and unto God the things that are God's." Matt. 22: 21.

If Sunday laws are not religious and are not so designed, why is it so universally required of those who would seek exemption from their penalties that they must keep some other day "conscientiously and religiously"?

The Puritan Influences in American Law

"THE law is, to a certain extent, a progressive science." (Holden v. Hardy, 169 United States Reports, 336.) To understand the "inwardness" of American law one should know the history of our country and the influences which have been instrumental in shaping and modifying the English common law, on which, as a rule, the laws of the various States and Territories rest as a foundation. "The United States as a whole has no common law, except so far as its courts have followed the rules of English common-law procedure in determining their own. Most of the positive law of the United States comes from the several States."—*Encyclopedia Britannica*, eleventh edition, art. "American Law." There are a few States, such as Louisiana and New Mexico, and territory acquired by the Spanish war of 1898, which derive most of their law from France or Spain, and thus remotely from Roman jurisprudence. In a few of the other States along the Mexican border, a part of the law comes from the same sources.

English common law may be said to date from the time of the Magna Charta, that great charter of civil, and indirectly of religious, liberty, wrung from an unwilling king by the insistence of his liberty-loving people. Here we find the rights of the individual guaranteed in sundry ways against despotic action of the overlords or of the crown, but the religious rights of the individual are not mentioned in the document. The expression, "The church of England shall be free," refers only to the right of election of religious leaders, claimed by the English people.

The nature of the early law of England is very vitally influenced by the fact that in that country, under a church and state régime, heresy, or dissent from the established church, becomes disloyalty to the state. The only change which took place under Henry VIII was the change from the Papacy to Episcopacy. When

the latter was established by law, dissent from it became a crime to be punished by the state, so that while the victims were different, the work of persecution for religious belief continued.

The work of reform started by the early Protestant Reformers was now taken up and carried forward in England by those who felt that something still more thorough was necessary. Many of these who became known as Puritans, though originally having no idea of separating from the established church, finally did withdraw from that church, and thus gave rise to various sects. This so divided the English people that the government, handicapped as it was with a religious establishment, was compelled to choose between persecution and toleration, and it chose the latter. It remained, therefore, for our own country to develop in a practical way the idea of real religious liberty, or in other words, the absolute equality before the law of all forms of religion and of no religion.

None of the original American colonies, with the single exception of Rhode Island, was founded on the principle of a separation of church and state. Because of failure to recognize the fact that this principle became dominant in American law only at a subsequent date, many a false inference has appeared even in court decisions. As James T. Ringgold, of the Baltimore bar, says:—

"Upon no false assumption in history have more lies of fact and of inference been based than upon the false assumption that religious equality—as right thinkers define and defend it today, that is, the absolute equality of all religions and of no religion before the law—was understood by any considerable number of men when this country was first colonized, and the equally false assumption that any body of English colonists had grasped such an idea, or were influenced by it, or entertained the slightest notion of establishing religious equality on these shores."—*"The Legal Sunday,"* 'International Religious Liberty Association. 1804, pp. 33, 34.

Religious equality might be said even to be guarded against in the laws which were passed in several of the colonies. It would render this article too long to attempt to point out these laws which violated the principles of religious liberty as now understood. (For a partial list, see the book last quoted, pages 36-40.)

Among the original colonies one of the most influential was the Massachusetts Bay Colony. Here the Puritans, who had separated from the English Church, formed a union of church and state in which for a time the established church (the Congregational) was their own. In doing this they not only placed on their statute books those laws which have since come to be known as "blue laws," but to quite an extent placed the same mold upon very much of the volume of subsequent American law.

"The government of the new State [Massachusetts Bay Colony] was necessarily molded in consistency with the peculiar views of its founders. It was a religious settlement, and the ecclesiastical and civil rights of its members became, accordingly, as completely interwoven as those of England were when the queen assumed to be defender of the faith and supreme head of the church."—*"A History of the Puritans and Pilgrim Fathers,"* Stowell and Wilson, p. 499. New York, 1888.

It may be said in passing, that the Pilgrim Fathers of Plymouth Colony, who were Separatists that emigrated to Holland in 1608, coming to America and establishing the Plymouth Colony in 1620, were equally committed to the theory of the enforcement of religious duties by the state.

"Even John Robinson, the renowned Separatist and canonized pastor of the Pilgrims, defended earnestly the use of magisterial power 'to punish religious actions, he (i. e., the magistrate) being the preserver of both tables, and so to punish all breaches of both, . . . and by some penalty to provoke his subjects universally unto hearing for their instruction and conversion, yea, to inflict the same upon them, if after due teaching they

offer not themselves unto the church.'"—*"Religious Liberty,"* Henry Melville King, p. 70. Providence, R. I.; Preston & Rounds Co., 1903.

The practice of the colonists of Plymouth, however, was better than their theory. If the Massachusetts Bay Colony had shown the same toleration as did their neighbors of Plymouth, it is not probable that Roger Williams would have been driven out into the wilderness to found the first settlement established on the principle of the separation of church and state, which ultimately became, in theory at least, the American principle.

When the principle of the separation of church and state had become fully established and recognized in the national Constitution, one would expect that all laws violating this principle would have been removed from the statute books.



BURIAL HILL, PLYMOUTH, MASS.

"But, calmly ignoring the fact that according to the theory of our American constitutions there is not and cannot be any church here by law established, many American judges adopt the English view and still uphold American Sunday laws. We are boldly told that the purpose of the compulsory idleness required by these laws is 'to turn men to the duties of religion,' and 'enforce the observance of religious duties;' 'to promote and establish religion among us;' 'to induce the observance of the duties of religion in society;' and that the day is 'wisely recognized by law as a day of rest to be devoted to religious contemplation and observance.'"
—*"The Legal Sunday,"* pp. 132, 133.

¹ George v. George, 47 N. H., 27.

² Duprey's Case, Bright, 44.

³ Kounty v. Price, 40 Miss., 841.

⁴ Moore v. Hagan, 2 Duv., Ken., 487.

The argument by precedent, where the appeal is to English or colonial common law, is not sufficient in such cases. Blackstone rightly places breaches of the Sunday laws among his "offenses against God and religion." (See Volume II, p. 264.) While such laws may be logical in a state having an established church, in America, where this is not the case, they are clearly out of keeping with the principles of our national Constitution. Surely an appeal to English common law in the case of a religious holy day is unwarranted.

In general, we may say, however, that the Puritan idea of protecting Sunday from the desecration of its sacred hours by either work or *play*, still lives in much of our statutory law. The emphasis now seems to be on the play, as we see it in laws against Sunday baseball and other

forms of amusement. In some cases, art galleries, buildings of historical interest, and pleasure resorts are closed on Sunday, evidently with the idea of allowing no competition with the Sunday services of the churches.

This is the Puritan, not the American, conception, and an evident inheritance from Puritanism; something that we have not as yet outgrown. But we are sure that every loyal American will, with us, look forward in hope to a time when every law, whether State or national, which may have originated in the Puritan conception of theocratic government, may be swept from the statute books, so that our beloved country may stand forth a consistent champion of the American principle of the religious equality of all men and preference to none.

L. L. C.

Compulsory Sunday Rest is a Violation of Moral Principles

BY W. MAYHEW HEALEY

To support the assertion in our title it is only necessary to call attention to a few natural laws and axiomatic truths.

Of all earthly intelligences, only human beings are capable of forming their own character. They alone possess the ability to comprehend moral character and the principles that underly it.

All earthly creatures, except mankind, have their characters unchangeably fixed by nature, which we call instinct. They are incapable of knowing that there is any being, standard, or character higher than their own natures. For this reason they have no moral responsibility for their conduct or the use of their time. This is true alike of the hawk, the buzzard, and the turtledove. It is no insult to the buzzard to say that it is not responsible for its disgusting habits. But it is one of the greatest insults to intelligent men and women to tell them that they are not responsible for their words and acts.

God having given to man, as a matter of fact, the moral sense by which to distinguish between right and wrong and with it the power and opportunity to choose his own course of life for good or evil, he holds him individually responsible for his choice and the use he makes of his time.

If a man feeds his horse stolen hay, we hold the man, and not the horse, responsible.

A church may require its members to refrain from labor on Sunday, or any other day, and make such requirement a test of fellowship; but it may not compel any one to be a member. Union with the body and obedience to its tenets is a matter of individual choice.

The state may control the time and acts of its citizens so far as it becomes necessary for the preservation of the state and the rights of its citizens. Obedience to such laws is also voluntary on the part of good citizens.

Compulsory Sunday rest laws have no part in maintaining good civil government, but rest wholly upon a religious basis.

God has not ordained that either the church or the state shall dictate to his creatures how they shall use their time in his service. To coerce one into any form of religious service is to deny the right of choice, and to deprive that person of God-given liberty to choose the way. If the church and the state compel people to go in the right way, it is not pleasing to God, because that is of compulsion and not of free choice.

If the church or the state had the au-

thority from God to compel the formation of character, it, and not the individual, would be responsible; and a letter from the church or a recommendation from the government would be the only needed passport into heaven.

The unused arm, even of the athlete, soon becomes weak and helpless; and when man is deprived of the liberty of moral choice, moral weakness and turpitude soon follow, and he becomes incapable of self-government.

The serfs in Russia, the peons in Mexico, the slaves of all ages and lands, are examples of church-and-state domination and dictation.

Why the Temperance Cause is Gaining Ground

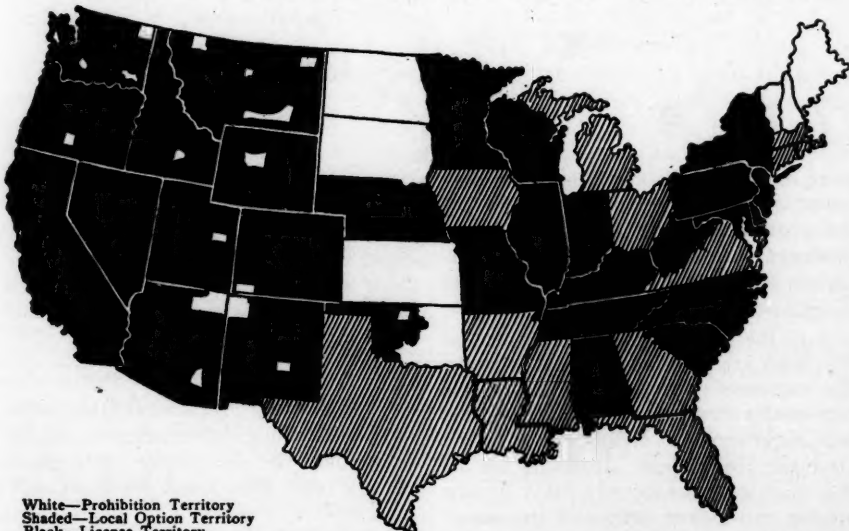
THIS magazine is opposed to both the liquor habit and the liquor traffic, because the habitual use of intoxicating beverages is destructive to the highest interests of the home and the nation, and has proved itself to be an enemy to life, liberty, and human happiness.

Any business that destroys the individual, wrecks the home, puts a blight

upon posterity, and threatens the perpetuity of republican government, is an enemy to humanity and its most sacred rights, and deserves to be banished by due process of law.

To make money by preying upon the individual units of society, impoverishing and destroying them, would mean the ultimate annihilation of government

"WET" AND "DRY" MAP OF THE UNITED STATES BY STATES, JANUARY 1, 1893



White—Prohibition Territory
Shaded—Local Option Territory
Black—License Territory

White spots in Black states show Indian Reservations "dry" by Federal law

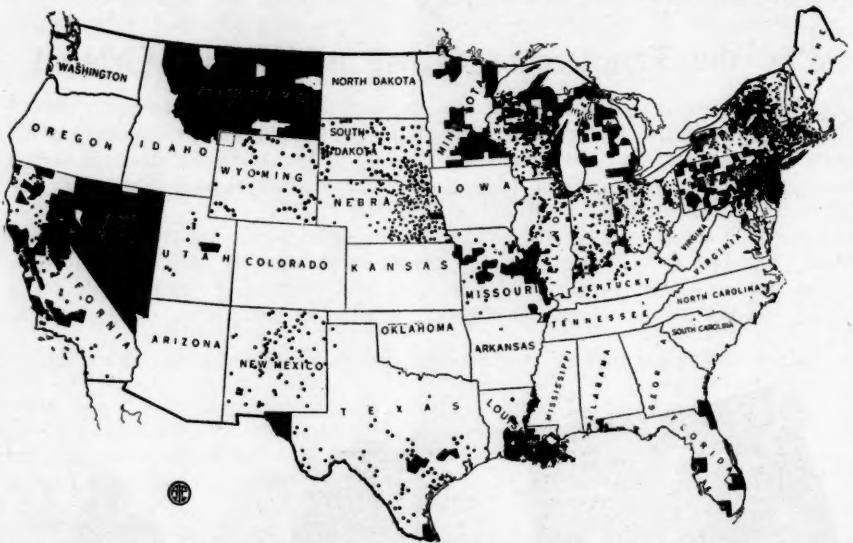
and of society itself. The preservation of individual rights and the highest interest and welfare of society as a whole, must ever be the basic object of all just human government. For this reason we unhesitatingly champion the cause of prohibitive legislation as a means of curtailing, as far as possible, the evils incident to the use of alcoholic liquors as beverages.

Honorable Business has Outlawed Liquor

Tremendous gains have been made recently by the temperance forces. The reasons are obvious. At first our gains

The liquor traffic can no longer deceive and fool the public on the subject of revenue and big business. Its prolific misrepresentations of facts have been unmasked, and the sleeveless Hand which appeared in the festive halls of ancient Babylon is now seen writing "Tekel" on the modern walls of rum-soaked Babylon. There are now twenty-five States that have outlawed the traffic of the Rum Demon. The public office seeker can no longer hold himself aloof from this great national issue. The liquor traffic, like the slave traffic, is a national evil, and must ultimately be settled, and settled

"WET" AND "DRY" MAP OF THE UNITED STATES, JANUARY 1, 1916



were in the Southland. The South outlawed the liquor traffic largely on account of the Negro. The liquor traffic produced race riots, and made life uncertain for both the white man and the Negro.

Now the farmers and business men of the West are banishing the liquor traffic for economic reasons. The thrifty and progressive business world of the West has outgrown the civilization of Rum Rule and Home Ruin. It has no use for the man who cannot pay his bills nor render the highest efficiency in service on account of the handicap of liquor.

right and permanently, by the federal government. The President who signs the Emancipation Proclamation of the eight million liquor slaves will vie in fame with Abraham Lincoln, who with one stroke of his pen set three million industrial slaves free.

Some Unanswerable Facts

The following comparative table, based on United States government statistics, nails one of the liquor falsehoods, namely, that prohibition does not prohibit:—

Barrels of beer produced in prohibition

States (1914) per 100,000 population, 4,856.

Barrels of beer produced in near-prohibition States (1914) per 100,000 population, 28,622.

Barrels of beer produced in partly-license States (1914) per 100,000 population, 106,411.

Barrels of beer produced in license States (1914) per 100,000 population, 123,753.

Satisfied with Prohibition

The liquor party this year, claiming that the people were dissatisfied with prohibition, reopened the question of resubmission or some other subterfuge to introduce liquor into five States that went

dry one and two years ago. But an astounding surprise came as the results of the election were tabulated, and it was discovered that the citizens in the States of Washington, Oregon, Colorado, Arkansas, and Idaho had overwhelmed the intrigues of the liquor movement with a more decided majority vote than when prohibition was first adopted. The chambers of commerce and the business men's associations who were against prohibition in the beginning, came out boldly, and declared prohibition to be the greatest economic friend of progressive business.

The accompanying "dry" and "wet" maps show the tremendous gains toward making the whole map of the United States white and clean. Columbia will never be satisfied until her garments are white, her land saloonless, and her flag stainless.

C. S. L.

Four More "Dry" States

MICHIGAN, Nebraska, South Dakota, and Montana added to the ranks of the "dry" States by constitutional amendments, prohibition governors elected in Florida and Utah, and a popular vote for the abolition of the liquor traffic in the Territory of Alaska,—these triumphs of the prohibition cause in the elections of November 7 crowd into the background the vote polled by the Prohibition party's Presidential candidate. Nor does this astonishing increase of dry territory tell the whole story. In Arkansas, Washington, Colorado, and Oregon, already under State-wide prohibition, propositions were submitted to the voters for various modifications of the law in favor of the liquor interests, and in all cases these amendments were defeated. In two "wet" States that voted on the question, Missouri and California, prohibition was defeated, but in Missouri the contest was so close that only the vote of St. Louis, the great brewing center, kept the State out of the dry column. . . . The number of States under State-wide prohibition laws has jumped from nineteen to twenty-three.—almost one

half the Union. "It will be noticed that Maine is the only State in the list east of the Mississippi River and north of Mason and Dixon's line," remarks the *Newark Star-Eagle*, which adds that "prohibition still remains a Southern and Western idea."

"This reform, like every other obtained in the last twenty years, is moving from the West and South to the North and East," said William J. Bryan to a Denver interviewer; and he added, "National prohibition will be an acute issue four years hence, unless the amendment is submitted to the States before that time, which is possible." A few days later, in New York, he said to a representative of the *New York World*:—

"My work during the next four years will be to contribute whatever I can toward making the national Democracy dry. When an issue arises it must be met, and the prohibition issue is here. Our party cannot afford to take the immoral side of a moral issue. The Democratic party cannot afford to become the champion of the brewery, the distillery, and the saloon. The members of the party will not permit it to be buried in a drunkard's grave."

Encouraged by the "dry" victories of the election, the prohibition forces in Congress, led by Senator Sheppard of Texas, are preparing to force a vote . . . on a national amendment to prohibit the sale, manufacture, or importation of alcoholic beverages in the United States, reports the Washington correspondent of the New York *Evening Post*. Such an amendment, as the Cleveland *Plain Dealer* reminds us, will require a two-thirds vote of the House and Senate

for submission and a three-quarters vote of the States for ratification.

Many observers seem to believe that the steady march of local and State victories for prohibition is rapidly robbing the National Prohibition party of its issue, but its leaders claim that its ticket, headed by former Governor Hanly of Indiana, and Dr. Landrith of Tennessee, polled a vote of 350,000 as compared with 208,000 in 1912.—*The Literary Digest*, Nov. 25, 1916.

How Religious Bigotry Operates in Pennsylvania

ON Sunday, Oct. 8, 1916, a constable of Hilltown, Pa., who felt it to be his duty to magnify his office by prosecuting Sabbatarians for working on Sunday, did some sleuth work, spying out violators of the old blue laws of 1794.

The two sons of Irwin Fisher, who is a strict observer of the seventh day, were cutting corn in a hollow back of the woods. The constable, unable to see them work from the public highway, but suspecting that work was being done by these Sabbatarians, walked back of the woods. Though without a warrant, he arrested the two boys who were cutting corn to the molestation of no one's peace.

On the Saturday following the notification of the arrest, the day which is observed as holy time by Mr. Fisher, the constable appeared at Mr. Fisher's house to collect \$4 in fines and \$1.36 additional for mileage, and stated that if they refused to pay the fine and costs, he would lock them up in jail at once. Mr. Fisher was away doing missionary work on this day, and the constable demanded of Mr. Fisher's wife, who was at home but without any money, that she borrow the money, or he would charge them double the amount if he had to come back on Monday to collect the fine and costs.

With fear and trembling, Mrs. Fisher went to a neighbor and succeeded in getting enough money to pay what the constable demanded. The officer knew that this day was the one the Fishers observed

sacredly and conscientiously as the Sabbath, and yet he disturbed their peace and virtually compelled them to transact all this secular business for him on that day. They did their work out of public sight on Sunday so as not to disturb any one, but the constable purposely disturbed them on their day of worship. Religious intolerance knows no golden rule. It is not in the creed of the fanatic or the bigot.

The case was taken before another tribunal by Mr. Fisher, and it was discovered upon investigation that this officious officer had made the arrest without warrant, and had collected fines and costs without authority. He was required therefore to return the money he had collected. The constable, now a crestfallen officer, waited, however, until the next Saturday—the day which is sacredly observed by Mr. Fisher—to return the money. Mr. Fisher informed the constable that he did not do business on that day, and that the officer knew it.

"O Consistency, thou art a jewel!" Here was a constable prosecuting a man who had rested on Saturday, because he worked on Sunday,—the day the constable professed to observe,—but not to the disturbance of any person's rest; and then, on the other hand, this same constable twice deliberately tries to disturb the rest of the man who observed another day than Sunday as holy time. This illustrates how Sunday laws operate when

administered by unscrupulous men in authority who are actuated by more zeal than principle. Sunday laws were put upon the statute books for no other purpose than to be used as a "big stick" to force the dissenter and nonconformist into line with the religious views and opinions of the Sunday observer. There is no equality or justice in such statutes.

The Sabbatarian has just as much right to work six days and rest on the seventh, as the Sunday observer has to rest on the first day of the week and work the other six days. If any person questions this right, let him read the supreme court decision of Oklahoma on this question, which decision is found in this issue of LIBERTY.

C. S. L.

U. S. Commissioner of Education Presents Difficulties of Religious Instruction in Public Schools

DR. PHILANDER P. CLAXTON, United States Commissioner of Education, outlined the difficulties of formal religious education in the public schools before the Pastors Federation of Washington, D. C., on Nov. 27, 1916. He said in part:—

"I have no patience with those who cry that the public schools are godless because they do not specifically impart religious instruction. They are not godless. They are not irreligious. The teachings of the public schools are the greatest force for the advancement of morality in the United States.

"In this country we have, and I most earnestly hope we shall continue to have, separation of church and state. It is not the prerogative of the public schools to impart religious teachings under our system of government. I take it for granted that no one here would want what some other countries of past ages have had. Separation of church and state has contributed to the vitality of religion in this country. Since the public schools, supported by the people, are fitting the children of the nation for citizenship, they may use whatever is best to accomplish that secular side of the highest citizenship.

"I have found as a rule that most public school teachers are not qualified to teach religion. If they were qualified, it would be impossible for them to agree upon the subject. Even the most ardent advocates of compulsory religious education are agreed on one thing, and that is that religious teaching as it has to do with the things on which we differ, rather than the things on which we unite, should not be given in the public schools. But the difficulty of harmonizing the divergent creeds of all denominations and of nonreligionists is an insurmountable barrier, and there would be little left on which we could agree.

"The plea that the public schools absorb all the time of the children so that there is no

time left for other instruction, does not hold. In the city of Washington, for instance, if a child attended school all he could, without ever being absent, he could only attend school something like 1,800 hours a year. The remainder of the 8,760 hours of the year are left for religious instruction. In nearly all our cities and towns there are far more churches than public schools."

Dr. Claxton told the assembled ministers of how, during a visit to Asheville, N. C., last summer, his own minister asked him why religion was not formally taught in the public schools, and how he lamented such a gross neglect on the part of the government. Dr. Claxton said he carefully investigated the matter, and discovered that in Asheville they had four times as many churches as public schools, and that the investment in church property and pastors' salaries in the town was four times that invested in public schools and teachers' salaries. "Thus," said he, "I found the town was paying four times more for religious instruction than for secular education. I found the churches manned by elderly men of collegiate education, whereas the public schools are taught by younger people, mostly young girls, a majority without college or university education. I then asked my old pastor, if there was a lack of religious teaching in this town, who ought to begin to consider it?

"I want to say that I firmly believe that the home, the church, general societies, and select schools are as much responsible for the proper education of the child as are the public schools of this nation. Especially is the home, the

church, and the Sunday school the place for religious instruction."

Against Allowing Credits for Religion

Commissioner Claxton told of various schemes advanced throughout the country to allow credit in public schools for religious instruction given outside of the public schools. He was decidedly opposed to this system, because of its inefficiency and lack of proper supervision. He said:—

"Such an arrangement would necessitate certain definite religious standards and grades of uniform teaching, as required of all other subjects taught in public schools, and the fixing of these specific standards of religious teaching would immediately bring up the question of the differences in the creeds. I certainly would not want my child taught some of the things that are taught in some creeds, and every other man has the same right to object as I have on such questions. Thus to safeguard every man's rights, the public schools would be unable to fix a specific religious standard for religious teaching or grading."

Said Dr. Claxton, during the course of his talk to the ministers:—

"If I were an educational czar, I would issue a ukase this very afternoon, prohibiting the giving of all grades in the public schools. I would do away with the system which allows a teacher to say that Little Mary Jones put one tenth more appreciation into her reading than Sallie Smith did. It is ridiculous to grade one pupil 98.3 per cent and another 98.7 per cent on reading a piece of literature. I never let my pupils know that I thought one excelled above another. To mark a pupil 100 per cent because he recites a recitation perfectly, is ridiculous. It often is the case that what a child recites perfectly, it knows about 15 per cent of what it means."

It is refreshing to know that the head of-our educational system in the United States has no sympathy with the present movement in this country among religious societies and some so-called "moral reformers," to require our public schools to impart religious instruction under duress of civil legislation. It is high time that a strong voice of protest be raised against such an un-American system.

C. S. L.

An Important Point Recognized

ONE of the most important points in the decision, printed on pages 3-5 of this magazine, is the recognition of the fact that as the Adventists view the matter, they have no right under the fourth commandment to keep two Sabbaths. True, the words of the commandment, "Six days shalt thou labor," are not mandatory in the sense that one who recognizes and who would obey the divine injunction can never take a day off, but must regularly and without deviation devote six days each week to labor. The truth is that the divine Author of the fourth commandment has by that precept of his law separated the seventh day from the six other days of the week, and has made it obligatory upon all men to respect that distinction.

The thought may be made plain by reference to a coin. The government takes a piece of metal of a certain weight and fineness, and puts its stamp upon it, thus separating it from all other pieces of metal not having the same stamp. The difference thus established must be respected. To disregard it in any way is to be guilty of defacing a coin or of issuing, passing, or having in possession counterfeit money.

Similarly, the Adventists hold, and the court admits the force of their contention, that for them uniformly and habitually to refrain from all secular pursuits on another day of the week, is to disregard the distinction made by the Creator himself between the seventh day and all other days, and that this they have no right to do; and that when the state undertakes to compel them to habitually treat another day even outwardly as they do the seventh day by refraining from labor and business upon it, this interferes with their right to keep the seventh day, for that day is not kept within the meaning of the divine law unless the distinction set up in the fourth commandment between it and other days is preserved, which is not the case when two days are similarly honored by abstinence from secular pursuits.

C. P. B.

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